REMARKS

By this amendment, claims 1-40 are pending, in which claims 1, 2, 5, 7, 9-13, 15, 17-18, 21, 23, 25-26, 28-29, 31, 33-34, 37, and 39 are currently amended and no claims are canceled, withdrawn or newly presented. Claims 5, 7, 11-13, 15, 21, 23, 28-29, 31, 37, and 39 were amended to resolve discovered informalities. No new matter is introduced.

The Office Action mailed March 23, 2005 rejected claims 1, 5-7, 9, 13-15, 17, 21-23, 25, 29-31, 33, and 37-39 under 35 U.S.C. § 102(e) as anticipated by *Bingaman et. al.* (U.S. 6,000,031), claims 2-4, 10-12, 18-20, 26-28, and 34-36 as obvious under 35 U.S.C. § 103(a) based on *Bingaman et al.* in view of *Makansi et al.* (U.S. 6,771,597), and claims 8, 16, 24, 32, and 40 as obvious under 35 U.S.C. § 103(a) based on *Bingaman et al.* The rejections of the claims are respectfully traversed because the applied art neither discloses nor suggests the recited features of the claims.

In the interests of advancing prosecution, independent claims 1, 9, 17, 25, and 33 have each been amended to recite, "**wherein the information is partitioned into a plurality of data types, the data types including viewable data, encrypted data, and state data**," which is neither disclosed nor suggested by either *Bingaman et al.* or *Makansi et al.*, individually nor in any reasonable combination.

Bingaman et al. (per col. 1: 46-53) is directed to authenticating on-line updates to listings in a network-based directory service by (1) receiving an on-line update for a listing; (2) receiving origination information associated with a telephone call initiated by a user of a phone line corresponding to the listing; and (3) detecting a match between said origination information and at least a portion of the listing to authenticate the update.

Although not precisely tracking the language of claims 2 or 3, the Office Action, in its obviousness rejection based on *Bingaman et al.* and *Makansi et al,.* (p. 6) correctly

acknowledges, "Bingaman does not specifically disclose forwarding step is partitioned into plurality of data types, including viewable data, hidden data, encrypted data, and state data," and then states:

> Makansi disclose this limitation in (fig. 2, 4 and col. 4, lines 55-67; col. 5, lines 60-65; col. 6, lines 15-24). It would have been obvious to person of ordinary skill in the art at the time invention was made to generate a response message that includes the portion of the information, the information being partitioned into a plurality of data types, the data types including viewable data, hidden data, encrypted data and state data as taught in Makansi with data security system disclosed in Bingaman in order to securely identify and distinguish data thus providing easy access to the data by the user.

However, *Makansi et al.* (per col. 1: 7-9, col. 2: 8-12) is directed to transmitting messages as packets over a network using security steps to make the messages less susceptible to unauthorized access. According to the cited portions of *Makansi et al.,* the message may be divided into packets formed with random sizes, with either the packets being encrypted or the message being encrypted prior to being divided into packets. (col. 5: 60-65) A message format may be used that includes a data portion 201, a header portion 202, and a trailer portion 203. (col. 4: 55-67, FIG. 2) The packets may be transmitted in random order by inserting ordering keys in the packets. The ordering keys may be "hidden" in the data portions of the packets or the ordering keys may be encrypted. (col. 6: 15-24)

As best understood, the Office Action equates the "information" recited at least by claim 2 with the packets of *Makansi et al.* However, nowhere does *Makansi et al.* disclose or suggest that the packets, or any contents of the packets, is "**partitioned**" into any data types, much less partitioned into data types **"including viewable data, encrypted data, and state data."** Moreover, the Office Action fails to explain how *Makansi et al.* discloses any type of "state data." Thus, amended independent claims 1, 9, 17, 25, and 33 are allowable.

The rejections of dependent claims 3-8, 11-16, 19-24, 27-32, and 35-40 should be withdrawn for at least the same reasons as those discussed above with regard to the allowability of their respective independent claims, and these claims are separately patentable on their own merits. For example, dependent claim 3 recites, "receiving a selection message from the access device, the selection message including encrypted data and state data associated with the information; and transmitting new visible data of the information associated with the encrypted data to the access device," which includes language that is not addressed by the Office Action in its sweeping rejection of "Claims 2-3" on p. 6. This lack of explanation contravenes 35 U.S.C. § 132, which requires the Director to "notify the applicant thereof, stating the reasons for such rejection." This section is violated if the rejection "is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection." *Chester v. Miller*, 906 F.2d 1574, 15 USPQ2d 1333 (Fed. Cir. 1990). This policy is captured in the Manual of Patent Examining Procedure. For example, MPEP § 706 states that "[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity." Furthermore, MPEP § 706.02(j) indicates that: "[i]t is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply."

As another example, dependent claim 4 recites, "preparing billing information based upon the state data; and generating a report based upon the state data." The Office Action (pp. 6-7; *see also,* p. 7, p. 8, p. 9) states, "Official notice is taken that preparing billing and reporting information based upon the state data; and generating a report based upon the state data is well known in the art. One of ordinary skill in the art would have been motivated to employ billing and reporting information in order to conduct secure financial transaction." As discussed

previously, *Bingaman et al.* and *Makansi et al.* fail to suggest or disclose the recited "state data" and the Office Action further stretches its assumptions to an Official Notice regarding preparing billing and reporting information based upon such "state data." The APA requires the Patent Office to articulate and place on the record the "common knowledge" used to negate patentability. *In re Zurko*, No. 96-1285 (Fed. Cir., Aug. 2, 2001). *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002). Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection). Therefore, if the Examiner maintains this rejection in a next action, Applicants request that specific factual findings and some concrete evidence to support such a rejection be produced.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8501 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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